

Appl. No. 10/807,974
Dated: April 16, 2008
Reply to Office action of March 17, 2008

ELECTION/REMARKS

In the Action, restriction under 35 U.S.C. § 121 is required between the following inventions as provided in the following groups of claims:

- I. Claims 1-38 and 48-52, drawn to a surgical access device, classified in class 604, subclass 164.01.
- II. Claims 39-43, drawn to a method for placing a surgical access device across a body wall and into a body cavity, classified in class 604, subclass 500.
- III. Claims 44-47, drawn to a method for forming a surgical access device, classified in class 264, subclass 239.

In response to the election/restriction requirement, Applicant provisionally elects Group I, namely Claims 1-38 and 48-52.

The action further indicates on page 5 that the Application contains claims directed to the following patentably distinct species:

- A. Figures 6-10;
- B. Figure 11;
- C. Figure 12;
- D. Figure 13;

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- E. Figure 14;
- F. Figure 15;
- G. Figure 16;
- H. Figure 17;
- I. Figure 18;
- J. Figure 19;
- K. Figure 28; and
- L. Figure 29.

The action also indicates on page 5 that the Application contains claims directed to the following patentably distinct sub-species:

Sub-species AA:

- M. Figures 20A, 20B;
- N. Figure 21;
- O. Figure 22;
- P. Figures 30A, 30B, 30C; and
- Q. Figure 31.

The action also indicates on page 6 that the Application contains claims directed to the following patentably distinct sub-species:

Sub-species BB:

- R. Figure 33;
- S. Figure 34;

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- T. Figure 35;
- U. Figure 36;
- V. Figures 37-39;
- W. Figures 41A, 41B; and
- X. Figure 42.

The action requires under 35 U.S.C. § 121 an election of a single disclosed species to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

In response to the election/restriction requirement, Applicants provisionally elect Species A, exemplified in Figures 6-10, Sub-species P from Sub-species AA, exemplified in Figures 30A, 30B and 30C, and Sub-species T from Sub-species BB, exemplified in Figure 35. As such, Claims 1-9, 20-26, and 34-38, readable thereon, are elected. Thus, Claims 10-19, 27-33, and 39-52 are withdrawn.

New Claims 53-72 have been added. Claims 53-72 are similar to original Claims 1-9, 20-26, and 34-38, except they include a seal at the distal end of the tubular member, the seal being sized and configured to form a seal with an instrument when an instrument is in place within the working channel of the tubular member and to form a zero seal when no instrument is in place within the working channel of the tubular member. Claims 53-72 are believed to be readable on the elected invention and species.


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If, however, based on this Amendment the Examiner believes a different election/restriction requirement is required and/or selection of claims, Applicants reserve the right to change/traverse the election of species and claims directed thereto.

In view of the foregoing remarks, it is respectfully submitted that this Application is in condition for allowance. Accordingly, reconsideration of the application and allowance of Claims 1-9, 20-26, 34-38 and 53-72 are respectfully requested. If the Examiner believes that a telephone conference with Applicants' attorney might expedite prosecution of the Application, the Examiner is invited to call at the telephone number indicated below.

Sincerely,

APPLIED MEDICAL RESOURCES

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